

REMARKS

Reconsideration and allowance of the present patent application based on the foregoing amendments and following remarks are respectfully requested.

In the pending Office Action, the Examiner rejected claims 49, 50, 58, 62, 73, and 75, under 35 U.S.C. §103(a), as allegedly being unpatentable over Yuyama '408 in view of Van Berkel '766; rejected claim 56, under 35 U.S.C. §103(a), as allegedly being unpatentable over Yuyama '408 in view of Van Berkel '766 and further in view of Hamblen '289; and rejected claim 74, under 35 U.S.C. §103(a), as allegedly being unpatentable over Yuyama '408 in view of Van Berkel '766 and further in view of Levy '522.

By this Amendment, claims 49, 62, 73, 74, and 75 have been amended for form and clarity and new claim 76 has been added. No new matter has been introduced. As such, claims 49m 50, 56, 58, 62, and 73-76 are currently presented for examination, of which claims 49, 62, and 76 are independent.

Applicant respectfully traverses the §103(a) rejections for the following reasons:

I. REJECTION UNDER §103(a).

As noted above, independent claim 49 now positively recites, *inter alia*, an optical system with an optical element, the ***optical element having a variable focal length characteristic***, that uses no polarizing plate, and forms an image whose brightness is independent of a polarized direction of incident light, the optical system comprising no lens element that moves along an optical axis . . . ***said focal length of said optical element having the variable focal length characteristic being independent of the polarized direction of the incident light.***

Applicants submit, once again, that none of the asserted references are capable of suggesting each and every element of claim 49 including, for example, the claim features noted

above. In particular, the Examiner acknowledged that the primary reference, Yuyama '408, fails to disclose an optical element having a variable focal length characteristic or that a single focusing element makes the optical focal length of the optical element variable. The Examiner, however, relied on Van Berkel '766 as allegedly teaching such a feature. (See, Office Action: page 4). Applicants disagree with the combination of Yuyama '408 and Van Berkel '766 as well as the characterization of Van Berkel '766.

To be clear and to the point, there is simply nothing in Yuyama '408 that remotely suggests or contemplates changes in the focal length of the optical element having a variable focal length characteristic. Nor does it suggest the use or need for such a single focusing element. Indeed, the optical lens element 25 of Yuyama '408 is specifically described as focusing images to CCD 26, so if lens element 25 were capable of variable focal length characteristic (which it is not), then it would violate the claim requirement that the optical system comprises *no lens element that moves along an optical axis*, as recited by claim 49. So to force fit the variable focal length teachings of Van Berkel '766 onto the fixed focal length configuration of Yuyama '408 not only defeats the principle of operation of Yuyama '408, it can only be justified by impermissible hindsight.

Equally notable, Van Berkel '766 discloses a layer comprising an electro-optic material 8 having a refractive index which is electrically changeable and mentions, as an example, a twist-nematic liquid crystal layer. (See, Van Berkel '766: col. 3, lines 56 to 65; FIG. 1). However, in direct contrast to the language of claim 49, it is clear that the twist-nematic liquid crystal layer has a *focal length that is dependent on the polarized direction of incident light*. Moreover, Van Berkel '766 remains silent as to a liquid crystal element, other than the twist-nematic liquid crystal layer, which has a focal length independent of a polarized direction of incident light. In so doing, not only does Van Berkel '766 fail to suggest that the focal length of the optical element having the variable focal length characteristic is independent of a polarized direction of incident light – it effectively teaches away from such a configuration.

Applicants submit that the remaining references fail to cure the deficiencies of Yuyama '408 and Van Berkel '766 noted above. Thus, for at least the aforementioned reasons, Applicants further submit that the asserted references clearly fail to render claim 49 obvious. As such, claim 49 is clearly patentable and dependent claims 50, 56, 58, and 73-75 are also patentable by virtue of dependency as well as for their additional recitations.

Moreover, independent claims 62 and 76 recite similar elements and limitations as claim 49. As such, independent claims 62 and 76 are patentable for at least similar reasons as claim 49.

Accordingly, the immediate withdrawal of the §103(a) rejections is respectfully requested.

Conclusion

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

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Respectfully Submitted,

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